

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304, Honolulu, Hawaii 96813, Telephone 536-4587, www.tfhawaii.org

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September 11, 2017

Rules Office
Hawaii Department of Taxation
830 Punchbowl Street, Room 221
Honolulu, HI 96813

Re: **Comments on Proposed Rules Relating to Revocation of Tax Licenses**

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Ladies and Gentlemen:

The amendments made by the proposed rules dispense with the current requirement that licensees whose licenses are proposed to be cancelled because of abandonment receive mailed notice as well as notice by publication.

We understand and appreciate that it is expensive to give notice, especially if thousands or tens of thousands of licenses are involved. However, we are concerned that the Due Process Clause of our federal and state constitutions will require mailed notice to those licensees whose post office addresses are known to the Department. As stated in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 318 (1950):

As to known present beneficiaries of known place of residence, however, notice by publication stands on a different footing. Exceptions in the name of necessity do not sweep away the rule that, within the limits of practicability, notice must be such as is reasonably calculated to reach interested parties. Where the names and post office addresses of those affected by a proceeding are at hand, the reasons disappear for resort to means less likely than the mails to apprise them of its pendency.

Thus, we believe it appropriate for the Department to retain paragraph (d)(1) of the existing rule.

Thank you for the opportunity to submit comments.

Very truly yours,


Thomas Yamachika
President

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